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In re Application of
Imes
Application No. 09/943,632
Filed: August 30, 2001
Attorney Docket No. KRIMES.0002
For: DEVICE, NETWORK, SERVER, AND
METHODS FOR PROVIDING DIGITAL
IMAGES AND ASSOCIATED
PROCESSING INFORMATION

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on May 15, 2009 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to properly respond to the final Office action mailed November 29, 2006, which set an extendable three month period for reply. Applicant submitted a petition for a one month extension of time, the \$60.00 fee, and an amendment after final on March 16, 2007. The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the April 4, 2007 Advisory action. Applicant submitted a petition for a two month extension of time and \$225.00, a RCE and \$390.00, and an amendment on May 29, 2007. However, on May 29, 2007, a three month extension of time of \$510.00 was required. In addition, the RCE fee was \$395.00. There was no general authorization to charge fees to a deposit account. Therefore, the May 29, 2007 correspondence was filed too late and was insufficient. In essence, the application was abandoned when applicant attempted to file the RCE. It is noted that a Notice of Noncompliant Amendment was mailed on June 7, 2007, well after the application was abandoned. This application became abandoned on March 30, 2007, the day after the one month extension of time expired. A Notice of Abandonment, mailed on April 30, 2008, cited an incorrect reason for the abandonment.

Applicants have submitted a RCE and required \$405.00 fee and amendment as the submission in reply to the November 29, 2006 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the November 29, 2006 final Office action, and the \$810.00 petition fee.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, practitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, practitioner must notify the Office.

All requirements under 37 CFR 1.137(b) being met, the petition is granted.

Regarding fees, as stated above, applicant filed \$390.00 of a \$395.00 RCE fee and \$225 of a \$450.00 balance due for a three month extension of time on May 29, 2007. These fees will be refunded via a treasury check that will be scheduled shortly.

This application is being referred to Technology Center AU 2622 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries pertaining to this decision may be directed to the undersigned at (571) 272-3230.



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